

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 6145 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?  
1 to 5 No

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RATILAL AMBALAL SOLANKI

Versus

RAJUBHAI VALLABHBHAI JOSHI

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Appearance:

MR SANDIP C SHAH for Petitioner

MR RAJNI H MEHTA for Respondent No. 3

MR DARSHAN M PARIKH for Respondent No. 6

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CORAM : MR.JUSTICE S.D.SHAH

Date of decision: 04/08/97

ORAL JUDGEMENT

1. Admit. Mr. Rajni H.Mehta appears for Respondent No.3 and Mr.Darshan M.Parikh appears for Respondent No.6 and waive service of admission on behalf of their respective parties. Rest of the parties are ordered to be deleted.

2. This is the First Appeal preferred by the original claimant being aggrieved by the judgment and award dated 24th of April, 1995 passed by Motor Accident Claims Tribunal (Auxiliary), Ahmedabad. The Tribunal has awarded the total amount of Rs. 33,000/- and the working up of the said amount is pointed out to this court by learned counsel Mr. S.C. Shah as well as by Mr. R.H. Mehta appearing for respondent No.3 and Mr. D.M. Parikh appearing for respondent No.6. The claimant has filed this appeal for the award of the balance amount of Rs. 28,000/-. Mr. S.C. Shah, learned counsel appearing for the claimant has stated that the Tribunal has failed to take into consideration the disability caused and the impact of such disability on the future earning capacity of the claimant.

3. Having heard Mr. R.H. Mehta and Mr. D.M. Parikh for the respective insurance companies, one aspect shall have to be kept in mind and it is that at Exhibit-33 a pursis is filed by the claimant stating that disability caused to the claimant is to the extent of 6 per cent only. Whether this disability is said to be a disability which would hamper the working capacity of the claimant or not is a moot question but it is not required to be gone into, in view of the fact that, in the opinion of this court, if the further amount of Rs. 12,000/- is awarded to the claimant, interest of justice would be met. The monthly income of the claimant on the date of the evidence is stated to be Rs. 3,826 and 6 per cent disability would reduce the said amount approximately by Rs. 180 per month. The yearly disability would therefore work out to Rs.2,160/- and applying the multiplier of 15 years, which is ordinarily being applied, the total amount payable would work out to Rs. 32,400, out of which amount of Rs. 20,000/- is awarded towards future economic loss. In the facts and circumstances of the case, it would be just and proper to award further amount of Rs. 12,000/- for future economic loss even if disability to the extent of 6 per cent is counted. It shall have to be kept in mind that the claimant shall have to undergo the disability which would affect his working capacity. In that view of the matter, this First Appeal stands partially allowed by awarding the further amount of Rs. 12,000/- (Rupees twelve thousand only) with interest at the rate of 12 per cent as awarded by the Tribunal from the date of the filing of the claim petition.

4. In the result, the First Appeal partially succeeds to the aforesaid extent. The additional amount awarded shall be deposited by the respective insurance

companies as per the liability determined by the Tribunal within 8 weeks from today. There shall be no order as to costs.

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